Supreme Court, U. S.
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No. 77-752

In the Supreme Court of the United States

OCTOBER TERM, 1977

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

THE CATHOLIC BISHOP OF CHICAGO, a corporation sole,

and

DIOCESE OF FORT WAYNE-SOUTH BEND, INC., ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

REPLY MEMORANDUM FOR THE NATIONAL LABOR RELATIONS BOARD

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Solicitor General,
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JOHN S. IRVING,
General Counsel,
National Labor Relations Board,
Washington, D.C. 20570.

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Respondents' Brief in Opposition does not deny the importance of the question presented in the petition, but merely attempts to show that the court of appeals was correct in concluding that application of the National Labor Relations Act to teachers in parochial schools would violate the Religion Clauses of the First Amendment. As pointed out in the petition (Pet. 12, 23), the question decided by the court below would restrict the reach of the Act in a significant, sensitive area involving some 10,000 schools and more than 100,000 lay teachers. Moreover, the same question is presented in other cases that are pending in various parts of the nation and, until it is resolved, additional litigation is likely.

While, for the reasons set forth in the petition (Pet. 13-22), we disagree with respondents' contention that the decision below is in accord with settled First Amendment principles, we believe that, in view of the undisputed, substantial importance of the question, it should be decided by this Court after the presentation of full briefing and oral argument.

For these reasons, as well as those set forth in the petition, we respectfully submit that the petition for a writ of certiorari should be granted.

WADE H. MCCREE, JR.,
Solicitor General.

JOHN S. IRVING,
General Counsel,
National Labor Relations Board.

FEBRUARY 1978.

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